

## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0993-PWS-E TCEQ ID: RN101451110 CASE NO.: 36066  
 RESPONDENT NAME: MICHAEL SOZA DBA WATER VALLEY WATER CO-OP

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> South of State Highway 71, approximately one mile east of Wolf Lane, east of Garfield, near the City of Cedar Creek, Travis County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. The Respondent owes \$12,328.38 in past-due administrative penalties (2007-1133-PWS-E).</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired August 10, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846          Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558</p> <p><b>TCEQ Regional Contact:</b> Ms. Carolyn Runyon, Austin Regional Office, MC R-11, (512) 339-2929</p> <p><b>Respondent:</b> Mr. Michael Soza, Owner, Water Valley Water Co-op, 2937 State Highway 71 West, Cedar Creek, Texas 78612</p> <p><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> February 18, 2008; June 16, 2008</p> <p><b>Dates of NOEs Relating to this Case:</b> March 31, 2008; July 14, 2008</p> <p><b>Background Facts:</b>  The EDRP was filed November 6, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The EDFARP was filed May 13, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>  Not yet in compliance. Customers of the system are currently in negotiation with the Respondent to take over ownership and operation of the system, with the help of the Small Business and Local Government Assistance Division of the TCEQ and the Texas Rural Water Association. The Respondent owes past-due fees of \$565.18.</p> <p><b>PWS:</b>  1. Failed to directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c)].</p> <p>2. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 92270030 for Fiscal Years 2002 through 2007 [30 TEX. ADMIN. CODE § 290.51(a)(6), TEX. WATER CODE § 5.702, and TCEQ Order 2007-1133-PWS-E, Ordering Provision no. 2.b.x.].</p>	<p><b>Total Assessed:</b> \$ 1,630</p> <p><b>Total Deferred:</b> \$ 0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$1,630</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days: <ol style="list-style-type: none"> <li>Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying consumers; and</li> <li>Pay all outstanding fees, including any associated interest for Financial Administration Account No. 92270030.</li> </ol> </li> <li>Within 45 days, submit a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data.</li> <li>Within 60 days, submit written certification to demonstrate compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

<b>DATES</b>	<b>Assigned</b>	12-May-2008	<b>Screening</b>	17-Jun-2008	<b>EPA Due</b>	1-Jun-2002
	<b>PCW</b>	4-May-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Michael Soza dba Water Valley Water Co-op
<b>Reg. Ent. Ref. No.</b>	RN101451110
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36066	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-0993-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Stephen Thompson
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$700
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	54.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$378
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Notes

Penalty enhancement is due to 10 Notices of Violation ("NOVs") that contain violations similar to those contained in the current enforcement action and two dissimilar NOVs.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0.0% Reduction	<b>Subtotal 5</b>	\$0
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Before NOV      NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria.

<b>0.0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$552  
Approx. Cost of Compliance \$410  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,078
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	51.2%	<b>Adjustment</b>	\$552
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement recommended for the recovery of avoided costs of compliance.

<b>Final Penalty Amount</b>	\$1,630
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,630
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,630
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Screening Date 17-Jun-2008

Docket No. 2008-0993-PWS-E

PCW

Respondent Michael Soza dba Water Valley Water Co-op

Policy Revision 2 (September 2002)

Case ID No. 36066

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101451110

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	10	50%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 54%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty enhancement is due to 10 Notices of Violation ("NOVs") that contain violations similar to those contained in the current enforcement action and two dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 54%

Screening Date 17-Jun-2008

Docket No. 2008-0993-PWS-E

PCW

Respondent Michael Soza dba Water Valley Water Co-op

Policy Revision 2 (September 2002)

Case ID No. 36066

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101451110

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2000 through 2006.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 7

2191 Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$700

Seven annual events are recommended for the seven years during which no CCR or certification of delivery was submitted to the TCEQ.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$552

Violation Final Penalty Total \$1,630

This violation Final Assessed Penalty (adjusted for limits) \$1,630

## Economic Benefit Worksheet

**Respondent:** Michael Soza dba Water Valley Water Co-op

**Case ID No.** 36066

**Reg. Ent. Reference No.** RN101451110

**Media:** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$410	1-Jul-2001	1-Jul-2007	6.92	\$142	\$410	\$552
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no report was distributed.

Approx. Cost of Compliance

\$410

TOTAL

\$552

Screening Date 17-Jun-2008

Docket No. 2008-0993-PWS-E

PCW

Respondent Michael Soza dba Water Valley Water Co-op

Policy Revision 2 (September 2002)

Case ID No. 36066

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101451110

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702 and TCEQ Order  
Docket No. 2007-1133-PWS-E Ordering Provision 2.b.x.Violation Description Failed to pay all annual and late Public Health Service fees for TCEQ Financial  
Administration Account No. 92270030 for Fiscal Years 2002 through 2007 to the TCEQ  
in a timely manner.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix  
Notes

Adjustment \$1,000

\$0

## Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing  
cycle.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

## Economic Benefit Worksheet

**Respondent:** Michael Soza dba Water Valley Water Co-op

**Case ID No.:** 36066

**Reg. Ent. Reference No.:** RN101451110

**Media:** Public Water Supply

**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit associated with this violation.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0



# Compliance History

Customer/Respondent/Owner-Operator:	CN603197526	SOZA, MICHAEL	Classification:	Rating:
Regulated Entity:	RN101451110	WATER VALLEY WATER CO-OP	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	2270030
Location:	SOUTH OF HWY 71, ONE MILE EAST OF WOLF LN, EAST OF GARFIELD, NEAR THE CITY OF CEDAR CREEK, TRAVIS COUNTY, TX			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	June 16, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 16, 2003 to June 16, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Stephen Thompson Phone: (512) 239-2558

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/02/2004 (561085)
- 2 03/03/2005 (562549)
- 3 05/31/2005 (562558)
- 4 02/23/2006 (454557)
- 5 03/22/2006 (562567)
- 6 11/21/2006 (562583)
- 7 01/26/2007 (562738)
- 8 02/15/2007 (644163)
- 9 02/21/2007 (562750)
- 10 04/15/2007 (644454)
- 11 04/25/2007 (562756)
- 12 05/01/2007 (644560)
- 13 06/25/2007 (565067)
- 14 07/01/2007 (645100)
- 15 07/27/2007 (567481)
- 16 05/09/2008 (655030)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

1 Date: 07/02/2004 (561085)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect all of the 5 distribution samples in 05/2004 following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post PN for not collecting all of the 5 distribution samples in 05/2004

following a coliform found month.

2. Date: 03/03/2005 (562549)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring sample(s) for 01/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 01/2005.
- 3 Date: 05/31/2005 (562558)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring sample(s) for 04/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 04/2005.
- 4 Date: 03/22/2006 (562567)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring sample(s) for 02/2006.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 02/2006.
- 5 Date: 11/21/2006 (562583)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring sample(s) for 10/2006.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 10/2006.
- 6 Date: 01/26/2007 (562738)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: Failure to collect any of the 5 distribution samples in 12/2006 following a coliform found month.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post PN for not collecting any of the 5 distribution samples in 12/2006 following a coliform found month.
- 7 Date: 02/15/2007 (644163)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)  
Description: BACT - MONITORING/REPORTING VIOLATIONS
- 8 Date: 02/21/2007 (562750)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring sample(s) for 01/2007.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 01/2007.
- 9 Date: 04/15/2007 (644454)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)  
Description: BACT - MONITORING/REPORTING VIOLATIONS
- 10 Date: 04/25/2007 (562756)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring sample(s) for 03/2007.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post PN for not collecting any routine monitoring sample(s) in 03/2007.

11 Date: 05/01/2007 (644560)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)

Description: PUBLIC NOTICE

12 Date: 07/01/2007 (645100)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)

Description: PUBLIC NOTICE

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MICHAEL SOZA DBA WATER  
VALLEY WATER CO-OP;  
RN101451110**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2008-0993-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Michael Soza dba Water Valley Water Co-op ("Mr. Soza").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Soza owns and operates a public water supply located south of State Highway 71, approximately one mile east of Wolf Lane, east of Garfield, near the City of Cedar Creek, Travis County, Texas (the "Facility").
2. The Facility has 17 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During a record review conducted on February 18, 2008, a TCEQ Central Office investigator documented that Mr. Soza failed to directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2000 through 2006.

4. During a record review conducted on June 16, 2008, a TCEQ Central Office investigator documented that Mr. Soza failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 92270030 for Fiscal Years 2002 through 2007 to the TCEQ in a timely manner.
5. Mr. Soza received notice of the violation in paragraph 3 on or about April 5, 2008. Mr. Soza received notice of the violation in paragraph 4 on or about July 19, 2008.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Soza dba Water Valley Water Co-op" (the "EDPRP") in the TCEQ Chief Clerk's office on November 6, 2008.
7. By letter dated November 6, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Soza with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Soza received notice of the EDPRP.
8. More than 20 days have elapsed since Mr. Soza received notice of the EDPRP, provided by the Executive Director. Mr. Soza failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Soza dba Water Valley Water Co-op" (the "EDFARP") in the TCEQ Chief Clerk's office on May 13, 2009.
10. By letter dated May 13, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Soza with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Soza received notice of the EDFARP.
11. More than 20 days have elapsed since Mr. Soza received notice of the EDFARP, provided by the Executive Director. Mr. Soza failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Soza is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Soza failed to directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c).
3. As evidenced by Finding of Fact No. 4, Mr. Soza failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 92270030 for Fiscal Years 2002 through 2007 to the TCEQ in a timely manner, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6).
4. As evidenced by Finding of Fact Nos. 6, 7, 9, and 10, the Executive Director timely served Mr. Soza with proper notice of the EDPRP and EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact Nos. 8 and 11 Mr. Soza failed to file a timely answer to the EDPRP or EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Soza and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Soza for violations of the Texas Water Code and Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of one thousand six hundred thirty dollars (\$1,630.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.

8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Soza is assessed an administrative penalty in the amount of one thousand six hundred thirty dollars (\$1,630.00) for violations of the Texas Water Code and Texas Health and Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Soza's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Michael Soza dba Water Valley Water Co-op; Docket No. 2008-0993-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

2. Within 30 days after the effective date of the Commission Order, Mr. Soza shall:
  - a. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying consumers, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274; and,

- b. Pay all outstanding fees, including any associated interest for Financial Administration Account No. 92270030, as required by 30 TEX. ADMIN. CODE § 290.51. The payment shall include the notation "Michael Soza dba Water Valley Water Co-op Account No. 92270030" and shall be mailed to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

- c. Within 45 days after the effective date of this Commission Order, Mr. Soza shall submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087

- d. Within 60 days after the effective date of this Order, Mr. Soza shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."



Mr. Soza shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Ms. Carolyn Runyon, Water Section Manager  
Texas Commission on Environmental Quality  
Austin Regional Office  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Soza. Mr. Soza is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Soza shall be made in writing to the Executive Director. Extensions are not effective until Mr. Soza receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Soza if the Executive Director determines that Mr. Soza has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

## AFFIDAVIT OF JACQUELYN BOUTWELL

STATE OF TEXAS           §  
                                  §  
COUNTY OF TRAVIS       §

“My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Soza dba Water Valley Water Co-op” (the “EDPRP”) was filed with the Office of the Chief Clerk on November 6, 2008.

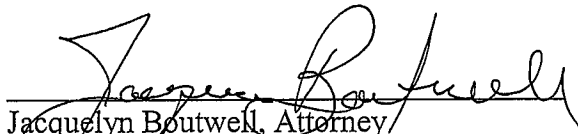
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More than 20 days have elapsed since Mr. Soza received notice of the EDPRP. Mr. Soza failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Soza dba Water Valley Water Co-op” (the “EDFARP”) was filed with the Office of the Chief Clerk on May 13, 2009.

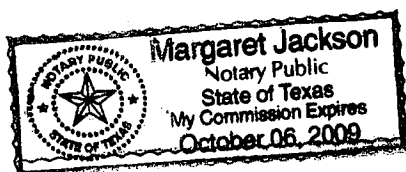
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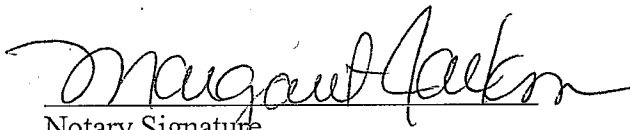
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Jacquelyn Boutwell, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 23 day of July, A.D., 2009.



  
Notary Signature